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American Library Association

April 4, 2000

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Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street SW
Room TW B-204
Washington, DC 20554

APR - 4 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RE: CC Docket No. 98-146, FCC 00-57
Reply Comments of the American Library Association and Civil Rights Forum

Dear Ms. Salas:

On behalf of the American Library Association and the Civil Rights Forum, we enclose an original and four copies of the Association's Reply Comments in the above referenced docket. We request that each commissioner receive a personal copy of these Reply Comments.

If you have any questions, please call Sandra Shirley, Telecommunications Specialist, at (202) 628-8421.

Very truly yours,



Emily Sheketoff
Executive Director, Washington Office
American Library Association



Mark Lloyd
Executive Director
Civil Rights Forum

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
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APR - 4 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Inquiry Concerning Deployment of)
Advanced Telecommunications)
Capability to All Americans in a Reasonable)
And Timely Fashion, And Possible Steps to)
Accelerate Such Deployment Pursuant to)
Section 706 of the Telecommunications)
Act of 1996)

CC Docket No. 98-146

REPLY COMMENTS OF
AMERICAN LIBRARY ASSOCIATION
AND THE
CIVIL RIGHTS FORUM

Submitted,

April 4, 2000

I. Introduction

The American Library Association (ALA) and the Civil Rights Forum (CRF) respectfully submit Reply Comments in the above referenced proceeding (CC Docket No. 98-146, FCC 00-57) regarding the Federal Communications Commission's Notice of Inquiry concerning the deployment of advanced telecommunications capability (ATC) to all Americans in a reasonable and timely fashion, and possible steps to accelerate such deployment pursuant to section 706 of the *Telecommunications Act of 1996*.

ALA filed Comments on in this proceeding on March 20, 2000. The Comments filed by ALA addressed five major areas: equitable deployment and access to ATC, the authority of the FCC and the need for the FCC to ensure deployment to all Americans, the vital role of community access centers (public libraries being the most capable community access center), the use of demand pooling to accelerate deployment, and the critical relationship between section 254 and 706 of the Act. While we will not reiterate our Comments herein, we do refer the Commissions to those Comments and note their importance to this Inquiry.

Based on a review of the Comments in this Inquiry, ALA and CRF identified three areas to which Reply Comments were required to emphasize the public interest, as well as to

express the specific concerns of the library community. The Reply Comments provided below address:

1. the definition of Advanced Telecommunications Capability,
2. the evolution of Universal Service and eligible services, and
3. the collection of data on ATC deployment.

II. Definition of Advanced Telecommunications Capability

In the Federal Communications Commission's First Report on Advanced Telecommunication Capability Deployment at 14 FCC Rcd at 2406, advanced telecommunications capability is defined "...as having the capability of supporting in both the provider-to-consumer (downstream) and the consumer-to-provider (upstream) directions, a speed (in technical terms bandwidth) in excess of 200 kilobits per second (kbps) in the last mile." Several industry Comments filed on March 20, 2000¹, in response to this Inquiry opined that the definition of ATC needs to be revised to focus on downstream instead of upstream bandwidth and to include as the base for a minimum level of service, any capability above POTS. The American Library Association and the Civil Rights Forum strongly disagree with and object to any changes to the definition of ATC that would not include two-way bandwidth above 200 kilobits per second or that would that reduce capability below what is currently available digital broadband

¹ "several industry comments" or "industry comments" or other similar references used through out this Reply Comment, refers to Comments made by AT&T, Bell Atlantic, National Cable Television Association, National Rural Telecom Association, and SBC Communications in their filing in this docket, CC Docket 98-146, FCC 00-57, regarding changing the definition of ATC.

technology. Such changes would violate the spirit and letter of the section 706 (a) and (c) of the *Telecommunications Act of 1996*.

Section 706 (a) of the Act requires the deployment of advanced telecommunications capability to all Americans in a timely and reasonable manner. Section 706 (c) (1) of the Act defines ATC "...without regards to any transmission media or technology, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology." Therefore, changing the FCC's definition of ATC as recommended by many of the industry comments would not only violate the law by focusing on one-way rather than two-way bandwidth, but such changes would also:

1. reduce the measurement level of what constitutes advanced telecommunications capability to unacceptable old technology levels, and
2. be contrary to the public interest, and
3. violate the Act's dictates to deploy ATC, as defined in section 706, to all Americans.

ALA and CRF applaud and strongly support the Commission's definition of ACT established in the First Report. We strongly urge the FCC to retain, at minimum, the current definition. We recommend that any change to the existing definition reflects the future use (a quickly evolving creative process) of advanced services and the highest end of telecommunications technology capability available. Arguments to "broaden" the definition to include old technology and any capability above POTS, ignore the growing

sophistication of customers, and the explosion of innovation and creativity of the Internet.

Nor should this discussion focus on residential customers only. Other customers --

libraries, schools, institution of higher education, museums, community organizations, all levels of government agencies, and small businesses, as well as a growing number of residential customers -- need two-way, downstream and upstream, high-speed digital capability of 200 kbps and above. Currently available and developing advanced and interactive services such as telemedicine, electronic government, a variety of library services, and distance education, require greater, two-way bandwidths than that urged by certain industry comments.

However, if it is concluded that any changes should be made to the definition of advanced telecommunications capability, we recommend that the FCC issue a separate Notice of Inquiry to allow comments and reply comments on this critical question.

III. Universal Service

Section 254 (b) of the Telecommunications Act of 1996 requires that the FCC (and the Federal-State Joint Board on Universal Service) shall base all policies for the preservation and advancement of universal service on the Universal Service Principles. These principles include that access to advanced telecommunications and information services should be provided to all regions of the Nation, including to low-income, rural, insular, and high cost areas; and to schools and libraries. Section 254 (c) defines

universal service as an evolving level of telecommunication services and requires that the Commission shall establish the definition of services eligible for universal service support periodically by taking into account advances in telecommunications, information services and technologies; and authorizes the designation of additional services.

Thus, as advanced telecommunications capabilities and information services evolve, the services eligible for universal support to high cost, low-income, and insular areas, as well as to libraries and schools, must also evolve and expand. In the case of the universal service program for libraries and schools then, the eligible services must be reviewed periodically to ensure discounts for advanced telecommunications and information services as they evolve.

We applaud the Commission and the Joint Board on Universal Service for their commitment to the E-rate program and to the evolving nature of eligible services. The advanced telecommunications and information services must be available, however, in order to be added to the services eligible for universal service support. These advanced services must also be available in a geographic area for a library or school to be able to request E-rate discount for them. This is the essence of ALA's and CRF's concern about the deployment of advanced telecommunications capability -- that universal deployment of ATC is a prerequisite to universal service, and thereby, access to advanced telecommunications and information services.

The deployment of advanced telecommunication capabilities in all areas in which "public institutional telecommunications users" such as libraries reside, is critical and central to the provision of advanced telecommunications and information services. Therefore, carrying out the mandate of section 706 of reasonable and timely deployment of advanced telecommunication capability is essential to the ability of libraries to provide access to the general American public they serve.

It is not clear, at this time, that deployment is reasonable and timely since there is no data available to analyze the level of deployment. However, it is clear that advanced telecommunications capabilities, as defined in section 706 (c) (1), are not available to all Americans, nor to all of the public institutions such as libraries and schools, that would provide access.

IV. ATC Deployment Data Collection

ALA and CRF applaud the Commission for its inquiry regarding the establishment of a comprehensive data collection program to document deployment of advanced telecommunications capability (Local Competition and Broadband Reporting, CC Docket 99-301, FCC). Although the report and final recommendations are pending, we are confident that the final program will provide the data needed to conduct an unbiased analysis of ATC deployment.

Reply Comments filed by ALA (December 20, 1999) in the Commission's data collection Notice of Inquiry urged frequent and periodic reporting by all telecommunications entities, and the geographic identification of deployment down to the zip code (or congressional district) level. We reiterate this recommendation and stress the importance of data to ensuring deployment to all Americans as required in section 706.

V. Conclusion

The current definition of advanced telecommunication capability established by the FCC in the First Report on ATC is consistent with the requirements of section 706 of the *Telecommunications Act of 1996*. ALA and CRF strongly support the FCC retaining its current definition. Should there be a need to revise the definition, a separate FCC proceeding on this question is recommended to allow a broader discussion of the question.

The deployment of advanced telecommunications capability to all Americans as required under section 706 of the *Telecommunications Act of 1996*, has not yet been achieved. Therefore, a comprehensive program of data collection administered by the FCC is needed to inform the debate on the reasonableness and timeliness of deployment. It is the deployment of ATC to underserved areas -- low-income, high cost, insular (inner city, rural, remote and tribal areas) -- and to libraries and schools that is of critical concern in

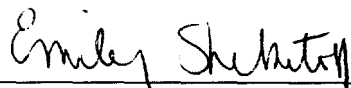
preserving and advancing universal service. The ability of the universal service programs to achieve the access and other principles set forth in section 254 of the *Telecommunications Act of 1996* depends on the evolution of the definition of services eligible for support to include advances in telecommunications and information services. As such, the deployment of ATC to all regions of the Nation will determine availability, and therefore, access to advanced telecommunications and information services. This is the critical point at which sections 254 and 706 are interdependent.

The universal service program for libraries and schools has assisted more than half of all public libraries in accessing telecommunications capabilities and Internet connectivity. Yet high-speed access, downstream or upstream, to advanced telecommunications and services remains to date not available in most libraries and schools. Some libraries have currently at most 56 K modems and many have 28.8 K modems -- a long way from high-speed access and the ability to provide public access to currently available advanced services. However, due mainly to the E-rate, libraries and schools will continue to improve. When ATC is deployed in an area and advanced telecommunications and information services become available, it is the E-rate program that will assist libraries and schools to access these continually evolving services.

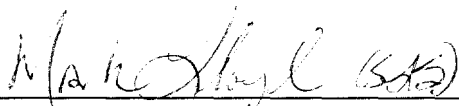
We appreciate the opportunity to submit reply comments on this matter and the Commission's consideration of our recommendations. ALA and CRF look forward to

continuing to work with the FCC on ATC deployment and stands ready to assist in
whatever way it can in the coming proceeding.

Respectfully Submitted,



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